

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 21994 of 2004

Between:

D. Hussainamma w/o Dudekula Bala Hussain, Aged: 28 years,

R/o Tadpatri, Anantapur district.

..... PETITIONER

AND

1. The Collector and District Magistrate, Anantapur.
2. The Government of Andhra Pradesh rep., by its Chief Secretary,
Hyderabad.
3. The Superintendent of Central Prison, Cherlapalli.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Habeas Corpus Under Art 226 of the Constitution of India directing the Respondents to produce the detainee (Petitioner's Husband) Sri Dudekula Bala Hussain, now detained in Central Prison, Cherlapalli, before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention as illegal and void

Counsel for the Petitioner: MR.C.PRAVEEN KUMAR

Counsel for the Respondents No 1to 3.: THE ADVOCATE GENERAL

The Court, at the stage of admission, made the following:

Oral order: (Per: The Hon'ble Mr. Justice Bilal Nazki)

The detention of the husband of the petitioner has been challenged in this writ petition. The detinue has been detained in terms of an order dated 01-10-2004 passed by the Collector and District Magistrate, Anantapur in terms of Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act').

Counter has been filed. Record is produced. We have heard the learned counsel for the petitioner and also the learned Government Pleader appearing for the Advocate General.

Various grounds have been taken to challenge the order of detention. One of the grounds taken is that the detinue was not informed by the detaining authority that the detinue has a right to make a representation to the detaining authority. In the counter affidavit it is not disputed. However, it is stated that it could not vitiate the order of detention of the detinue. This court has already considered and held by

order dated 09-12-2004 in W.P.No. 20160 of 2004; 20559 of 2004; 21086 of 2004 and 20629 of 2004 that if the detenue is not informed that he has a right to make a representation against the order of detention to the detaining authority, it would be an infraction of right guaranteed to the detenue under Article 22 (5) of the Constitution of India and, therefore, the detention order passed in this case can be quashed on that ground alone. Since we are quashing the order of detention on the ground mentioned hereinabove alone, there is no need to deal with other grounds.

As a result, this writ petition is allowed. The order of detention is quashed. The respondents are directed to release the detenue from the custody forthwith, if not required in any other case.

The writ petition is accordingly allowed. No costs.

BILAL NAZKI, J

Dr. G. YETHIRAJULU, J

Dt. 13-12-2004

Pvks/*

To

1. The Collector and District Magistrate, Anantapur.
2. The Chief Secretary, the Government of Andhra Pradesh, Hyderabad.
3. The Superintendent of Central Prison, Cherlapalli.
4. 2CCs to the Advocate General, A.P. High Court Buildings, Hyderabad (OUT).
5. 2CD copies

